IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Group Art Unit: 3626
Ashford, et al.	Examiner: Natalie A. Pass
Application No.: 09/648,582	
Filing Date: August 25, 2000	**DECLARATION OF PRIOR INVENTION BY DR. CLINTON B. ASHFORD UNDER 37 C.F.R. § 1.131**
For: METHOD AND APPARATUS FOR PROVIDING INCENTIVES TO PHYSICIANS	

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Clinton B. Ashford, hereby declare as follows:

1. Jay Sultan and I are the inventors of the invention described and claimed in U.S. Patent Application 09/648,582.

2. U.S. Patent Application 09/648,582 was initially assigned by myself and Jay Sultan to Celadon Health, Inc., on 02/12/2001 and is recorded at Reel/Frame: 011515/0234.

3. The declaration made herein is to establish that the reference entitled "The appropriate use of financial incentives to encourage preventive care in general practice," URL:<http://www.buseco.monash.edu.au/centres/che/pubs/rr18.pdf>, May 2000 (hereinafter

"Boyden"), cited in the Office Action dated 06/15/2007 for U.S. Patent Application 09/648,582, is not operable as a prior art reference.

4. The declaration made herein is to establish a completion of the invention in the application in the United States at a date prior to May, 2000, which is the publication date of the Boyden reference. Our invention was conceived and reduced to practice at least by January 2000.

5. The invention claimed in U.S. Patent Application 09/648,582, which is directed to a system that gives physicians a direct and proportional financial incentive for making proper, cost-effective clinical decisions was conceived by myself and Jay Sultan at least as early as April 1995, through work related to analyzing issues related to the level and type of care provided by physicians in a health care industry largely controlled by insurance companies.

6. Exhibit A attached herewith is a confidential Prospectus dated April 21, 1995, and entitled "Health Partners Inc. – A Prospectus" ("the HPI Prospectus"), which describes the idea of giving patients' own chosen physicians a direct and proportional financial incentive for making proper but cost-effective clinical decisions. The system described in the HPI Prospectus comprises an incentive provider (HPI) that works with insurance companies and physicians or other providers to provide targeted incentives based on cost savings and cost-effective patient management. This prospectus evidences the inventors' conception of the invention as described and claimed in U.S. Patent Application 09/648,582 prior to May 2000.

7. Health Partners, Inc. was the original name of the company now known as Celadon Health, Inc. Health Partners, Inc. was re-named "Celadon Health, Inc." in January 2000 and incorporated as a Delaware corporation.

8. After conception of the idea described in the HPI prospectus, Mr. Sultan and I worked diligently to implement the idea by designing a computer-based system to automatically provide an interface to service providers (e.g., physicians) and insurance companies, and to provide functional components to calculate relevant costs and incentive payments. In order to develop the necessary computer software, we worked to assemble a technical team, define the scope of work, identify the issues to be solved, consult with relevant users and industry parties to define the necessary process modules, and develop the programming models for implementation of the invention. This activity took place continuously during the period of 1996 through 1999.

9. This computer programming aspect of the development work was initiated at least as early as 1998 by a technical team including and directed by myself and Mr. Sultan. Exhibit B is an outline of information systems for HPI, dated January 28, 1999. This outline provides a list of program code, databases, and other software necessary to implement various aspects of the invention, as defined by the previous development work. Computer programming work comprising writing and debugging program code proceeded from at least January 1999 through December 1999, and all of the relevant modules for the program components of the outline shown in Exhibit B were complete at least as of January 2000.

10. All of the necessary computer files for the invention were complete and functioning in an object code and executable code form prior to May 2000. We were thus able to execute the program code in a computer system at least as of May 2000 and through testing we determined that the claimed aspects of the present invention were functional.

11. Based on the above description and as is evident by the attached exhibits, the invention and reduction to practice of the subject matter described in the present application was prior to the date of May 2000, the publication date of the Boyden reference.

12. I further declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true and that; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing therefrom.

Dated: December 13, 2007

By: Clinton B. Ashford
Clinton B. Ashford

EXHIBIT A

Confidential from Clint Ashford to Tom Greene April 21, 1995

HEALTH PARTNERS INC. - A PROSPECTUS

AN HISTORICAL BACKGROUND AS TO WHY CURRENT MARKET TRENDS THREATEN THE EXISTENCE OF TRADITIONAL HEALTH INSURANCE COMPANIES:

The insurance industry has always been, first and foremost, a business of sharing risk Though it may require certain underwriting provisions of it's insureds, it is not the nature of the insurance concept to control, organize or direct other types of businesses but, simply, to insure against risks. However, in the field of health insurance recently, insurers have felt uniquely compelled to get more involved in the actual administration of health care. Advances in medical technology, confounding tax implications of premium benefits and governmental interference in the market place have all contributed to higher costs and progressively higher health care premiums. Insurers who are not taking an active role in somehow supervising health care delivery are at a competitive disadvantage in the pricing of their policies.

In the 1940's Henry Kaiser pioneered the concept of merging a health care system and an insurance company into one entity; the result was Kaiser Permanente. This organization carries the concept of supervision of health care to the maximum extent by in effect rolling the health care system and the insurance company into one. Most traditional companies, however, have resisted this innovation, preferring to offer lesser degrees of oversight and constraints on health care provision and payments Market forces are now demanding a more concerted effort by insurers to get control of costs If insurers can, in fact lower costs, most will survive in their current form; if they cannot, then the provider/insurers (like Kaiser) will dominate the market.

HOW CAN HEALTH PARTNERS INC HELP INSURANCE COMPANIES MAINTAIN THEIR COMPETITIVE EDGE IN THE MARKET PLACE?

Indemnity health insurers need to realize that they have maintained dominance in this market for the last 50 years because they have been offering the best product. Most people prefer a system that allows individuals to make health care decisions in consultation with a doctor of their choice and have the insurer pick up the tab.

HMO's and MCO's have been able to offer increasingly larger savings to clients by "managing" the clinical choices of physicians and patients. These constraints upon patients and physicians have resulted in costs of 20-40% below traditional health insurance costs.

The Health Partners concept works by offering a structure which gives patients' own chosen physicians a direct and proportional financial incentive for making proper but cost-effective clinical decisions. Under the current system the physician earns more by seeing that his patients are provided with an increased volume of health services. Health Partners Inc. reverses this incentive by offering the physician greater earnings by seeing that his patients are provided with proper but cost-effective services. The insurer is not standing between the doctor and the patient; nevertheless, the financial incentives of the doctor and insurer are essentially aligned. If

the insurer makes a bigger profit, so does the physician.

WHAT EXACTLY IS HEALTH PARTNERS INC ?

Health Partners Inc designs and implements a type of managed care product for insurance companies We arrange for delivery of all levels of medical services through practicing local physicians who have a financial incentive to prescribe the most cost-effective services Such a partnership allows the insurance company to concentrate on marketing the product to employers and then insuring risks; the local physicians in each specialty benefit in proportion to their cost savings for the insurer Health Partners provides on-going oversight of provider costs and quality

WHO IS HEALTH PARTNERS INTENDED TO SERVE?

We serve insurance companies which offer group policies to large employers:

1. We offer a service that the insurance companies would tend to outsource (See Network Society, Drucker)
2. The Health Partners method refines, improves and standardizes the health care product that the insurance company markets and underwrites
3. Costs are reduced by offering targeted financial incentives to physicians for offering high quality but cost-effective care

HOW EXACTLY DOES HEALTH PARTNERS INC. WORK?

Health Partners Inc. works directly and indirectly to modify costs of health care incurred by the insureds.

a. Team Leader physicians (specialists and generalists) are contracted to oversee the type of care provided to covered patients in his or her specialty or field. These will be senior, well respected and cost-aware and cost-effective physicians. They will have calm and diplomatic personalities and be willing to work with Health Partners Inc to bring down the cost of medical care incurred by their colleagues Team Leaders will be compensated by rebates commensurate with total (ie: hospital, office, pharmacy etc.) cost savings in their specialty. Other attending physicians would also receive rebates commensurate with specific cost-effective patient management These cost savings would be defined by objective criteria that will be described later.

b. Health Partners Inc will work with insurance companies to negotiate preferred provider contracts for physician and hospital fees discounted 20-30%

c There will be on-going support, feedback and prodding by Health Partners Inc. to continually keep physicians aware of the benefits to them of reducing overall costs to the insurance company.

d Health Partners Inc will also work with the hospitals to be sure that efficient and proven critical pathways are developed and implemented.

Financial incentives of physicians, the insurance company and Health Partners Inc. are aligned. As costs are reduced, each benefits proportionately

WHO PAYS FOR HEALTH PARTNERS' SERVICES AND THE PHYSICIAN INCENTIVES?

The insurance company contracts for Health Partners Inc. to implement its program over a three year period. A retainer is paid to Health Partners (to help offset expenses)

All other fees and expenses will be paid out of a pro rata share of cost savings realized by the insurance company as a result of our program.

For example,

$1,000,000	Premium income
- 300,000	Overhead and profit for insurance company
700,000	Expected health costs to be paid in a given year
- 600,000	Actual health costs paid
100,000	Savings - The insurance company would retain half of this amount and Health Partners Inc. would dispense the other half as targeted physician incentives and profit for itself

The insurance company saves money and liability by outsourcing all cost-containment and utilization management functions by using the services of Health Partners Inc. Other savings of 15-30% are possible as the incentive and management system becomes operative. At the same time, quality stays high because fee-for-service and the personal doctor/patient relationships stay intact. Insurance companies can market this concept as a superior product at comparable cost to HMO's that restrict choice of physicians and access to care.

EXHIBIT B

Outline of Information Systems for HPI

I. Overview

There are three broad categories of information systems that will be needed by HPI. The first category contains the client-server software used to process claim information from the insurance company, group the data into episodes, and eventually calculate the incentive payments to the physicians and return that data to the insurance company. This category of information systems will primarily comprise of the Oracle database, PL/SQL program code, and the Vertex software. This category of software must be developed first. It must be completed soon after the trial period begins. This category is largely "back-end" product.

The second category of software consists of reports and ad-hoc query tools that are used to perform analysis of the data. There are a number of different types of analysis, including exception reporting, performance analysis, trends, benchmarking, validation, and problem solving. The audience of these reports are employees of HPI and they are essentially internal. This category of information systems will consist of reporting tools, query tools, report formats, and other products generated by the early users of the system all during the trial period. These products will be largely informal and not intended for outside use.

The third category of software is the user interface that will allow employees, physicians, and other interested parties to view and occasionally edit the data. This category includes the add/edit/delete tool for employees to edit and update the data, as well as an internet interface for authorized users to view data. These products will be developed during the trial. Before these products are developed, the users will use developer's tools to edit data This category is largely the "front-end" product.

II. Back End

A. **Interface / Filter from Insurance Company**
   1. Validation of data from Insurance Company
   2. Exception Processing
   3. Load Data into *InsuranceClaim* entity

B. **Preprocessing of Insurance Claim**
   1. Apply gaming rules
   2. Anticipate Vertex exceptions and resolve/suppress
   3. Interact with Comorbidity table

C. **Generate Grouper Input**
   1. Create PC Format
   2. Suppress Items

D. **Run Vertex Grouper**

E. **Process Grouper Output**
   1. Read back into Oracle
   2. Process exceptions
   3. Translate ETGs to PPIs

F. **Postprocessing of Grouped Data**
   1. Apply Gaming rules
   2. Look for cleanly finished ETGs and move to *History* entity.
   3. Override grouper logic in select cases.

4. Interact with comorbidity table

G. **Process Adjustments to *History***

H **Calculate Incentive**
1. Move or update *InsuranceClaim* and *History* data
2. Calculate incentives
3. Create output for insurance company and physicians

III. Reports

A. **Ad-Hoc**

B. **Scheduled**

C. **Statistical Analysis**

IV. Front-End

A. **Add/Edit all data**

B. **Windows for special processing**

C. **Internet interface**

V. Summary

All planning for information systems must anticipate a continuous reassessment, redesign, and modifications process. Because the HPI concept is new, and because of the central role played by the information systems, the software products will be very dynamic.

The personnel requirements and resources and the software requirements and resources must integrate to form the information system. Software development enables the other information-oriented personnel to operate.

IT operating procedure must be established in proportion to the central role of the information system and the importance of the data integrity.